IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

SECOND APPEAL NO. 853 OF 2005

Babn Kashinath Dhanvat & ors.... Petitioner

versus

Yusuf Dagadu Sayyad Dhonfode & ors.... Respondent.

Mr. N.V.Limaye with R.S.Apte for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 16TH JULY, 2007

P.C.;

1. The present appellant is the original defendant no.6. The suit came to be filed for partition and separate possesison by one Vajir and Abu, who were sons of Dagadu Ahmed. The suit was filed againt Dagadu Ahmed and Yusuf who are the brothers of the plaintiff. Dagadu Ahmed expired leaving behind four sons i.e. plaintiff nos.1 and 2 and defendant nos. 1 and 2. The defendant no.6/appellant herein has purchased the entire property from defendant nos.1 and 2. The suit for partition and separate possession was decreed by the trial court and it was only Dagadu Ahmed/defendant no.1 who had filed a regular civil appeal before the District court. The learned counsel for the present appellant admits that the appellant did not prefer any first appeal against the judgment and decree passed by the trial court. Strangly

enough, the present appellant has filed this Second appeal without prefering any first appeal, and hence this second appeal is wholely misconcieved. Thus the same is dismissed summarily.

2. In view of the above the civil applicaiton is also dismissed.

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